



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 05715-99
2 December 1999

GYSGT [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]

Dear Gunnery Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 2 September 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

5715-99

IN REPLY REFER TO:
1610
MMER/PERB
SEP 2 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
GUNNERY SERGEANT [REDACTED] SMC

Ref: (a) GySgt. [REDACTED] DD Form 149 of 18 Jun 99
(b) MCO P1610.7D w/Ch 1-2
(c) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 31 August 1999 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 970101 to 970630 (GC) -- Reference (b) applies
- b. Report B - 970701 to 980120 (CD) -- Reference (c) applies

2. The petitioner contends the reports are unfair evaluations of his performance for the cumulative 13-month period covered. Additionally, he states he was never afforded an opportunity to sight and respond to the Reviewing Officer's comments on either appraisal.

3. In its proceedings, the PERB concluded that both reports are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Notwithstanding the petitioner's own statement, there is absolutely no documentation whatsoever to dispute either the accuracy or fairness of the challenged fitness reports. In this regard, the Board concludes that the petitioner has failed to meet the burden of proof necessary to warrant removal of the reports.

b. Contrary to what the petitioner may opine, Colonel [REDACTED] did not add either new or additional adverse material to either evaluation. Rather, he addressed the petitioner's disagreements with the appraisals and resolved any factual differences (real or perceived), albeit in favor of the Reporting Senior. As such, the petitioner was correctly not afforded an opportunity to either sight or respond to Colonel [REDACTED]

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comments. Subparagraphs 5004.1 and 5004.2 of references (b) and (c) apply.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports should remain a part of Gunnery Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps